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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/077,150 | 02/15/2002 | Bernhard Peter Neumann | 4-30361B/C1 | 5272 |

1095 7590 03/26/2003

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EXAMINER

PATEL, SUDHAKER B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1624

DATE MAILED: 03/26/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/077,150

Applicant(s)

B.P. Neumann

Examiner

SUDHAKER PATEL, D.Sc. Tech.

Art Unit

1624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 24, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-9 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/601,463.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

The claims in this application are the claims 1-9.

This application is a continuation of U.S. Application Sr. No. 09601463 filed 10/31/00, now abandoned. This parent application has following restriction/election.

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) (in part) 1-9, drawn to compounds, simple composition, a method of use, and the first recited process of making of Formula I of generic claim 1 wherein X = O or S i.e. Benz-thiadiazole or Benz-oxadiazole core.

Group II, claim(s) (in part), drawn to compounds, simple composition, a method of use, and the first recited process of making of Formula I of generic claim 1 wherein X = -N-CH₃ i.e. Benz-triazole core.

Group III, claim(s)(in part)1-9, drawn to compounds, simple composition, a method of use, and the first recited process of making of Formula I of generic claim 1 wherein X = -CH=CH i.e. Benz-1,4-diazine core.

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Group IV, claim(s)(in part)1-9, drawn to compounds not included in above groups I-III. If this group is elected further restriction/election will be required, and a single specific species representing the group must be provided as there are many unknowns.

Applicants are required to elect one of the above groups and also a single species in reply to this Office Action.

2. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: They represent different structures.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

The values as presented for Het, together with variables R1, R2, and X will provide multiples of compounds.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

When Het = Figure (a)-(c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), etc. together with R1-R8 where applicable, will provide many species.

The following claim(s) are generic: Claims 1,3,9.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The base core Benz-thiadiazole or Benz-oxadiazole are known molecules.

6. A telephone call was made to Dr. Borovian on 3/21/03(Tel. 908 522 6921) to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker Patel,D.Sc.Tech. whose telephone number is (703) 308 4709.

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The examiner can normally be reached on Monday thru' Friday from 8:30 AM to 5:00 PM.

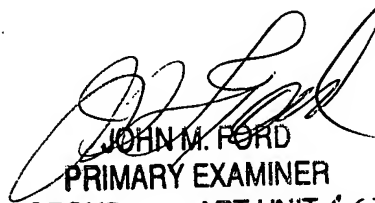
If attempts to reach the examiner by the phone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah can be reached at (703) 308 4716 or Sr. Examiner Mr. Richard Raymond at 703 308 4523.

a facsimile center has been established for Group 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4556 or (703) 305-3592.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 1235.

S.p.

March 23, 2003.


JOHN M. FORD
PRIMARY EXAMINER
GROUP - ART UNIT 1624